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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,628	10/08/2003	Ronald C. Gagne	IMA-0021-KWIKHANDS	6110

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EXAMINER

ARYANPOUR, MITRA

ART UNIT PAPER NUMBER

3711

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,628

Applicant(s)

GAGNE, RONALD C.

Examiner

Mitra Aryanpour

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 14-16 and 19-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 06 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 14-16, 19-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The following subject matters have not been properly described in the application as filed. In claim 14 a spherical element having a diameter ranging from 25.4 to 50.8mm (1.0-2.0); in claim 15, an element weight to hockey puck weight ratio of greater than 3 and a diameter ranging from 38.1-63.5 mm (1.5-2.5"); in claim 16, an element weight to hockey puck weight ratio of greater than 6 and a diameter ranging from 50.8-76.2 mm (2.0-3.0"); in claim 19, weight ranging from 227 to 1815 grams and diameter ranging from 33 mm to 89 mm; and a weight of 1000 grams or more (35.2 ounces); in claim 20, a mat having a thickness in the range of 10-51 mm (.39"); in claim 21 a fifth ball having a weight of 50 grams (1.7 ounces) or less and a diameter of 50.8 mm (2.0 inches or less); in claims 22 and 24, a coefficient of friction of at least 0.5; and in claim 23, an element having an element weight to hockey puck weight ratio of greater than 10 and a diameter ranging from 63.5 to 88.9 mm (2.5 - 3.5 inches). It appears that applicant is claiming broader than what has been disclosed. In claim 14 the diameter of the element as presented in the application as filed is greater than 38 mm. Applicant has amended the claim to indicate that the range is now from 25.4-50.8 mm (1.0 - 2.0"). The claimed range has no support in the application as filed. In claim 15, an element weight to hockey puck weight ratio of greater than 3 can only have a diameter ranging from 50.8-85.05 mm (2.0-3.0"). A

Art Unit: 3711

diameter of 38.1 would have an element to hockey puck weight ratio of 1.3, which is less than 3. In claim 16, an element weight to hockey puck weight ratio of greater than 6 can only have a diameter ranging from 63.5-85.05 mm (2.5-3.0"). The same applies to claims 19, 20, 21 and 23.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budolfson (5,192,259) in view of Mason (6,059,673).

Regarding claim 14, Regarding claim 14, Budolfson discloses a hockey stick handling training device for use with a hockey stick (16) comprising: a spherical element (ball 22) having a weight to hockey puck ratio of greater than 1.3 (the weighs approximately 2.5 pounds to 4.0 pounds; the ratio of the aforementioned range being greater than 1.3) and a diameter in the range of 2.5" to 3.0" (the diameter being greater than 38 mm (1.5 inches)); and, a practice surface (flat hard planar surface 12) for stick handling the spherical element (ball 22) between two positions (first position A and second position B) on the surface, wherein said surface provides a higher resistance to sliding of the spherical element than to rolling of the spherical element (the examples given by Budolfson for the flat hard planar surface 12 are by way example concrete, hard wood floor, asphalt etc. these surface have a rough surface which makes it much easier to roll the object, since when sliding, the rough surface produces obstacles for the object, hence creating resistance. Budolfson shows the practice surface comprises a substantially smooth and

Art Unit: 3711

flat surface (see column 1, lines 39-47) formed by a substantially uniformly thick layer of one concrete, hardwood, asphalt or other suitable surfaces. Budolfson does not expressly disclose the system can be adapted for use on other types of flat surface such as polyester, urethane foam, polyester with a vinyl facing, neoprene, ethylene vinyl acetone, silicone and polyethylene. Mason shows a goalie training system wherein the playing surface is comprised of synthetic ice. The use of synthetic ice material allows conventional ice skates to be utilized. In view of Mason it would have been obvious to also use Budolfson's system on synthetic ice the motivation being in order to allow conventional ice skates to be used.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budolfson (5,192,259).

Regarding claim 19, Budolfson shows a hockey stick handling practice kit comprising solid steel balls having weights ranging from 40 ounces up to 64 ounces and having diameters ranging from 2.5 inches to 3 inches for stick handling with a hockey stick on a practice surface, said practice surface being formed of a wooden, asphalt or concrete planar surface. It is well known that concrete has a low coefficient of friction, commonly about 0.4. Budolfson shows that it is desirable for training purposes to have ball ranging in weight and size, but does not expressly disclose providing a plurality of spherical elements each having a different weight to hockey puck ratio and having a different diameter. Budolfson provides an approximate weight range for the balls (2.5 pounds to 4.0 pounds) and a diameter range (2.5" to 3"). Therefore, it would have been obvious to have a plurality of spherical elements having different weight and diameter readily available so that the user would have optimum beneficial strengthening experience.

Art Unit: 3711

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budolfson (5,192,259) in view of Nudo (6,846,252).

Regarding claim 20, Budolfson shows the inventive device can be played on a flat hard planar surface such as the garage or driveway. Budolfson does not provide a specific size or material the practice surface should be formed of. Nudo provide a practice surface that is positioned on a surface such as the driveway having a length in the range of 4 to 8 feet. Budolfson does not disclose the width of the practice surface, but as best seen in figures 1 and 5 the width is about half the length therefore falls within the claimed range; and wherein the mat comprises a layer of one of polyethylene (column 2, lines 21-27); the mat having a layer thickness in the range greater than 0.5 - 2.0 inches (such can best be seen in figure 7; also see column 2, lines 50-53). In view of Nudo it would have been obvious to provide a mat for the inventive device of Budolfson, the motivation being to simulate actual playing environment.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budolfson (5,192,259) in view of Chiarelli (3,704,891).

Regarding claim 21, as indicated above Budolfson shows a training system having balls ranging in weight and size, but does not limit the system to a specific number of balls. Budolfson does not disclose balls which weigh less than a regular hockey puck. Chiarelli shows a training puck that has a weight that can range 2 to 3 times more than a regular puck (5.5 to 6 ounces) for senior or adult players and somewhat lighter puck for younger players. In view of Chiarelli it would have been obvious to also provide light ball/pucks for the training system of Budolfson the motivation being to cater to a larger group of users. with regards to the diameter of the ball being substantially 1.6 inches, Budolfson shows the ball diameter is about 2.5 to 3.0 inches, but

Art Unit: 3711

does not disclose expressly a diameter of 1.6 inches. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide a ball with 1.6" diameter, because Applicant has not disclosed that providing a ball with 1.6" diameter, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the ball diameter taught by Budolfson or the claimed ball diameter because both ball diameter perform the same function of providing a smaller than regulation practice ball, in order to optimize training. Therefore, it would have been an obvious matter of design choice to modify Budolfson to obtain the invention as specified in claim 21.

Response to Arguments

7. Applicant's arguments filed 06 June 2005 have been fully considered but they are not persuasive. It should be noted that the Amendment document filed 06 June 2005 should be considered non-compliant because it has failed to meet the requirement of 37 CFR 1.121. Claim 14 has not been presented with appropriate markings to indicate all the changes that have been made relative to the immediate prior version. The changes in any amended claim should be shown by strikethrough or brackets (for deleted matter) or underlining (for added matter). Applicant has deleted limitations in the claim without markings. As a courtesy to applicant and in the interest of expediting prosecution of this application, the amendment as presented has been examined. Correction is request in response to this Office Action.

The currently presented claims raise new matter, because applicant has broadened the scope of the invention without providing support in the application as filed. Additionally, it appears that applicant is arguing subject matter that is presented in the specification, which has

Art Unit: 3711

not necessarily been claimed. For example the claim limitations merely state that the practice surface or mat is a smooth flat surface formed of one of polyester, urethane foam, etc. having a thickness. There is no particular requirement in the claims that the polyester floor be of a specific type of polyester with particular qualities. As applicant is well aware training equipment (e.g. ball, bats) of varying specifications are used in the sports and training art. A single equipment can either be altered in weight or a plurality of equipment with different weights can be provided for the convenience of the user and to aid the user in improving the intended skill level. There is nothing unobvious about providing a plurality of balls with different weight and/or diameter that can either be rolled or slid on a surface.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. is assigned is 571-273-8300.

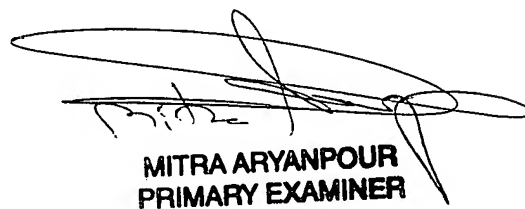
Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private P

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding AIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

17 August 2005



MITRA ARYANPOUR
PRIMARY EXAMINER